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11 **UNITED STATES DISTRICT COURT**
12 **NORTHERN DISTRICT OF CALIFORNIA**
13 **SAN JOSE DIVISION**
14

15 IN RE: HIGH-TECH EMPLOYEE
16 ANTITRUST LITIGATION

Master Docket No. 11-CV-2509-LHK

17 THIS DOCUMENT RELATES TO:

18 ALL ACTIONS
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**DECLARATION OF JOHN
MITTELBAACH IN SUPPORT OF
DEFENDANTS' JOINT
ADMINISTRATIVE MOTION TO FILE
UNDER SEAL**

1 I, John Mittelbach hereby declare and say:

2 1. I am an attorney with Munger, Tolles & Olson LLP, counsel of record for Intel
3 Corporation (“Intel”) in this case, and am admitted to practice before this Court. I make this
4 declaration in support of Defendants’ Joint Administrative Motion to File Under Seal that is being
5 filed concurrently with this Declaration. On behalf of Intel, I make this declaration pursuant to
6 Local Rules 79-5(d) and 7-11(a) to demonstrate compelling reasons for the portions of the
7 documents described below to be filed under seal. If called and sworn as a witness, I could and
8 would competently testify to the matters stated below.

9 2. I have reviewed the following documents, and made specific, narrowly tailored
10 redactions where necessary to protect highly confidential and highly sensitive Intel information
11 regarding its compensation, hiring, and recruiting practices in Defendants’ Reply in support of
12 their Motion to Exclude the Expert Testimony of Edward E. Leamer, Ph.D. and the accompanying
13 exhibits. The redactions – as detailed below – apply to only certain exhibits accompanying these
14 documents.

15 *The Reasons for Sealing the Redacted Information*

16 3. The grounds for Intel’s redactions identified below are set forth in the Declaration
17 of Tina M. Evangelista in Support of Plaintiffs’ Administrative Motion to File Under Seal
18 Plaintiffs Notice of Motion and Motion for Class Certification, and Memorandum of Law in
19 Support, Docket Item 203 (Oct. 8, 2012) (“Evangelista Decl.”). The types of confidential Intel
20 information reflected in the documents at issue here are the same (or substantially similar) to the
21 types of confidential Intel information described in the Evangelista Declaration. As explained in
22 the Evangelista Declaration, compelling reasons to seal the redacted information exist because: (1)
23 the information at issue here reflects confidential business information that gives Intel a
24 competitive advantage in recruiting, retaining, and compensating employees. Evangelista Decl. ¶
25 4; (2) Intel derives independent economic value from the strategic information and raw data
26 contained in these documents not being generally known to the public or to other persons who can
27 obtain economic value from its disclosure or use. *Id.* ¶ 5; and (3) it is Intel’s practice to treat these
28 documents and data as confidential, and not to disclose them outside the company. *Id.* ¶ 6. The

1 information reflected in the documents at issue here quotes from, describes, or reflects analysis of
 2 Intel's documents and data that have been designated "CONFIDENTIAL – ATTORNEYS' EYES
 3 ONLY" ("AEO") pursuant to the Protective Order in this Action.

4 *The Intel Confidential Information that Should be Sealed*

5 4. Specifically, Intel seeks to seal the following highly confidential, commercially
 6 sensitive information:

7 **Expert Report of Professor Kevin M. Murphy (Nov. 12, 2012):** The grounds for
 8 redactions relating to Intel confidential information are stated in the Declaration of Frank Busch in
 9 support of Defendants' Joint Administrative Motion to File Under Seal, Docket Item 220 (Nov.
 10 12, 2012) ¶¶ 4-10.

11 *The Particularized Harm Disclosure Would Cause*

12 5. According to the Evangelista Declaration, which addresses the same (or
 13 substantially similar) types of information as that which is redacted in the above-referenced
 14 documents, Intel would suffer particular harm if the redacted information is disclosed to the
 15 public. As described in the Evangelista Declaration, disclosure of such information (1) would put
 16 Intel at a significant competitive disadvantage in terms of its ability to identify, recruit, and
 17 compensate employees. Evangelista Decl. ¶ 8; (2) would deprive Intel of its investment in
 18 developing strategies for recruiting and compensation. *Id.*; and (3) would give Intel's competitors
 19 an unearned advantage by informing them of Intel's compensation strategies, compensation levels,
 20 and other related information. *Id.*

21 6. Because the information redacted in the above-referenced documents cannot be
 22 disclosed without causing particularized harm to Intel, it should be protected from public
 23 disclosure.

1 I declare under penalty of perjury under the laws of the United States that the foregoing is
2 true and correct.

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4 Executed this 27th day of February, 2014 at Los Angeles, California.
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8 /s/ John Mittelbach

9 John Mittelbach
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